

REMARKS

Claims 1 to 9 are currently pending in the present application. Claim 1 currently stands as being rejected under 35 USC § 112, second paragraph. Claim 1 also currently stands as being rejected under 35 USC § 102(b), and Claims 1 to 8 currently stand as being rejected under 35 USC § 103(a).

In response to the Action, the Applicant has amended Claim 1 in order to more clearly claim the inventive features of the slumber bag of the present invention. Also, Claim 1 has been amended to obviate the rejections under 35 USC § 102 and 103.

Further, the subject matter of Claims 2, 4 and 7 has been incorporated into amended Claim 1. Accordingly, Claims 2, 4 and 7 have been cancelled.

Rejection under 35 USC § 112

Claim 1 currently stands as being rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the present invention. In particular, the Examiner has commented on the fitting straps and the connector components. In response, the Applicant has amended Claim 1 to clearly define the subject matter of the present invention. As a result, the features of the first and second strap, the connectors, and the adjustment means are now positively claimed in the amended claim.

In light of the amendments to Claim 1, the Applicant contends that the rejection under 35 USC § 112 has been obviated.

Also, in view of these amendments, Claim 2 has been cancelled, and Claim 3 has been amended to agree with the amendments to Claim 1. Claim 1 has also been amended to clearly state that the connectors used are parachute clips, and that all of the fitting straps are orientated so as to be essentially parallel to the slumber bag opening. As a result of these amendments, Claims 4 and 7 have also been cancelled.

New Claim 10 has been added to claim the specific embodiment shown in Figure 3. No new subject matter has been added as a result of this amendment. Further, the searches conducted to date by the Examiner would have located any slumber bag having this configuration. As such, further searching by the Examiner should not be required as a result of this amendment.

Rejections under 35 USC § 102

Claim 1 currently stands as being rejected under 35 USC §102(b) as being anticipated separately by: (i) Barnes (US 5243724); (ii) Burns et al. (US 4124908); and (iii) Hazen (US 6105168). The Applicant respectfully traverses these rejections, particularly in view of the amendments presented herein, and the following comments.

1. Barnes

Barnes describes a multi-purpose baby wrap that has a single strap for holding the wrap in place around a child. This strap, which is preferably held together by Velcro fasteners, extends across the entire front section of the wrap. Alternatively, a set of "ties", which can be tied into a bow knot (Col. 3, line 2), might be used. Both of these options, though, provide a single strap which means that the entire force to hold the wrap in place is reliant on the single strap. It is also noted that this single strap that is used to hold the wrap in place, can be easily undone by a small child.

In contrast, the present invention (as amended) is limited to a slumber bag wherein the opening is partially closed through the use of a series of straps that are releasably attached using parachute clips. As described on pages 8 and 9 of the specification of the present invention, the use of parachute clips has distinct advantages over other closure means.

It also is to be noted that the present application specifically mentions that the use of Velcro fasteners is not preferred since: (i) a child can easily learn how to release the Velcro fastener; (ii) even a young child will have the strength to release the Velcro fastener; and (iii) as a child increases in size (and strength), the strength of the Velcro fastener "bond" is less since less of the Velcro fastener is available for use. As such, as the child get larger (and stronger), the effectiveness of the Velcro fastener becomes progressively worse.

Additionally, it is noted that a "bow knot" as suggested by Barnes can also be easily undone by a small child with minimal strength being required.

In the present invention, though, the parachute clips provide a superior method for closing the opening since they are strong connectors that can be easily manipulated by an adult but not by a small child. Also, their effectiveness is not diminished by placing a larger child in the slumber bag since the parachute clip is not dependent on the amount of strap material which overlaps (such as in the case of a Velcro fastener).

Further, the use of at least two, and preferably three, fitting straps spreads the collected blanket, wrap or bag material over several connectors and thus avoids "bunching" of the material in one place. This method of closing the bag opening provides a method for "tightening" the slumber bag around the child that allows the bag to be fitted comfortably around the child with an even distribution of the bulk of the material. This method therefore provides at least two or three strong connectors that must be undone by the child in order to extricate themselves from the slumber bag.

In view of these distinctions, the Applicant contends that the invention as presently claimed, is clearly not anticipated by Barnes.

2. Burns et al.

Burns et al. provide a Rescue and Transportation device, similar to a stretcher, that includes a blanket that can be wrapped around both the patient and the device and then held in place with a series of straps. The straps rely on Velcro fasteners to hold the blanket in place, and to enclose or close the entire side of the blanket.

Burns et al. do not provide a slumber bag *per se* for use in covering the torso and legs of a child, but merely a blanket that can be used in combination with a transportation device. In the Burns et al. device there is no need to design a blanket that it is resistant to removal by the occupant since the patient would virtually always want to keep the blanket in place. As such, Burns et al. do not address the issue of providing a device which is resistant to removal by the occupant of the device.

Consequently, Burns et al. do not provide a slumber bag wherein the connectors are parachute clips and as such, Burns et al. do not, and would not, expect any benefits from the use of these devices.

It also should be emphasized that Burns et al. provide a device with has restraining features that are capable of immobilizing an injured person in order to transport that person. In contrast, the slumber bag of the present invention is designed to allow free movement of the occupant while maintaining the slumber bag in place around the torso and legs of the child.

Finally, Burns et al. do not provide a series of straps to hold the opening of the slumber bag in a partially closed position wherein each of the fitting straps is located essentially adjacent to the edge of the slumber bag opening. Instead Burns et al. provide a series of straps along one side of

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the blanket which are used to keep the blanket side closed, and are not used to control the size of the opening into the slumber bag, as described in the present invention.

Accordingly, it is clear that Burns et al. do not provide a slumber bag for keeping a warming bag in place around a child, but provide a blanket which can be tightly held in place around a patient who is to be immobilized. As such, its use is distinctly different than the product of the present invention. Further, since Burns et al. do not provide for the use of parachute clips as connectors, and since Burns et al. do not provide a series of fitting straps located adjacent to the opening to be partially closed, the Applicant contends that the device of Burns et al. cannot anticipate the present invention.

3. Hazen

Hazen provides a very basic slumber bag which has some similarities to the product described and claimed in the present invention. However, it is the shortcomings of the Hazen design that the Applicant specifically seeks to address and improve. A key improvement over the Hazen design is the straps which are used in the present invention to partially close the opening at the one end of the slumber bag. It is noted though, that contrary to the suggestions of the Examiner, the Hazen slumber bag has a series of straps (e.g. items 58, 60, 62 and 64 in Figure 2) with Velcro strips (e.g. items 68, 70, 72 and 74 in Figure 2). These straps though, are merely used to provide attachment loops to hold the device in place in a stroller or the like (see Col 3, lines 28 to 33). As such, these straps are not used for closing the opening of the slumber bag and therefore, are irrelevant to the discussion of the slumber bag of the present invention.

Hazen does however provide a Velcro type attachment system for partially closing the opening of the slumber bag but this attachment system is sewn into the inside of the front and back panels. In this position, they can be brought into contact with one another, and thereby close the slumber bag opening.

This arrangement though provides little to prevent accidental opening of the slumber bag as the child moves around. Even when sleeping, the constant movement of the child would rapidly cause the Velcro type attachment system of Hazen to release and thus would allow the child to remove the slumber bag. Further, the positioning of the Velcro type attachment system of Hazen would provide an irritation to anyone wearing this slumber bag once the Velcro fastener had been

partially released.

As shown in the figures for the present invention, the fitting straps of the slumber bag of the present invention are located external to the slumber bag, as opposed to the internal closure means adopted by Hazen, and thus, would provide little or no irritation to the child. Claim 1 has, therefore, been amended to clearly include this feature.

Overall, therefore, Hazen does not provide a slumber bag having a series of external straps arranged around the outside portion of the slumber bag opening. Further, Hazen does not provide for the use of parachute clips for the strap connectors used to hold the straps in place. As a result, the Hazen device cannot anticipate the present invention.

Accordingly, in view of these comments, it is respectfully requested that the rejection of the claims under 35 USC § 102 be withdrawn.

Rejections under 35 USC § 103

Claims 1 to 8 currently stand as being rejected under 35 USC §103(a) as being obvious over Hazen in view of Barnes. Claim 9 currently stands rejected under 35 USC § 103(a) as being obvious over Hazen in view of Barnes, and in further in view of Shao (US 6421852). The Applicant respectfully traverses these rejections particularly in view of the amendments presented hereinabove.

With respect to the rejection of Claims 1 to 8, the Applicant again contends that the Examiner has not correctly understood the teachings of the Hazen document. As described hereinabove, straps 58, 60, 62 and 64 are merely used to hold the slumber bag in place in a stroller and are not used to partially close the opening of the slumber bag. As such, a review of the Hazen design is irrelevant with respect to the concept of partially closing the slumber bag opening.

Instead, as previously noted, Hazen uses Velcro type fasteners which have been sewn into the opening in order to partially close the slumber bag. However, as described hereinabove, this arrangement would be easily defeated by a moving child and, in general, would provide an uncomfortable and irritating closure mechanism.

The Applicant believes that the Examiner will readily appreciate and agree that providing a slumber bag for use with small children can provide certain difficulties. A primary concern is to

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make sure that the slumber bag stays in place regardless of the activity level of the child. For a sleeping child, it is important that the warming slumber bag remain in position regardless of the rolling or kicking movements of the child.

Further, the "retention" mechanism must be simple to operate by the parent or guardian while being resistant to mis-use by an inquisitive child. Also, the "retention" mechanism must be provided in such a manner that it will not provide a source of discomfort for the child since the child may not be able to correct, or tolerate, an uncomfortable arrangement of the slumber bag. As such, minor improvements in the slumber bag opening closure mechanism can be extremely important to the successful use of the slumber bag. It is this type of improvement in slumber bag technology that the present inventor has sought to address.

In contrast to the prior art, therefore, it is noted that although Barnes et al. provides an external strap for closure of the opening, they do not utilize a parachute clip. Barnes et al. also do not provide a series of external straps located adjacent to the edge of the slumber bag opening. Thus, it is noted that neither Hazen or Barnes et al. provides a series of external straps, each closed by using a parachute clip, which are arranged essentially parallel to the opening of the slumber bag. As such, neither document provides key features of the present invention. Further, neither document provides motivation for the skilled artisan to adopt these features since a combination of these documents would not lead or suggest to the skilled artisan, the improved slumber bag which is described and claimed in the present invention.

For example, using either Hazen or Barnes et al. as an initial point for review of slumber bag technology, the present invention provides an improved method for closing the opening of the slumber bag, as discussed hereinabove. When combined, the Barnes or Hazen et al. documents together do not provide or suggest the improvements provided in the present application. Accordingly, the Applicant contends that the present invention is not obvious in light of Hazen or Barnes et al., regardless of whether these documents are considered separately or in combination.

Therefore, having now clearly claimed the inclusion of all key aspects of the closure mechanism for the slumber bag of the present invention, the Applicant contends that the rejection of Claim 1 under 35 USC § 103(a) has now been obviated since neither Hazen or Barnes et al. provide motivation or suggestion to produce a slumber bag as described and claimed in the present

invention.

With respect to the rejection of remaining Claims 3, 5, 6 and 8, the Applicant comments as follows.

Claim 3 provides additional details on the arrangement of the fitting straps and their use for closing the opening of the slumber bag. This arrangement is not described in the Barnes document. Further, the Hazen document does not provide external straps for the partial closure of the slumber bag opening. As such, Claim 3 is therefore also non-obvious over Hazen in view of Barnes.

Claim 5 provides a zipper to be used for closure of one side and one end of the bag, as shown in the Hazen bag. The Applicant acknowledges that this type of feature is known in the prior art, but contends that Claim 5 is dependent on an allowable claim, and thus is allowable in its present format.

It is also noted that the Examiner, on page 5 of the Action, refers to the adjustability of the straps of Barnes et al. While straps 18 and 19 of the Barnes et al. design are adjustable in the sense that the degree to which the Velcro fasteners overlap can be adjusted, straps 21 and 22 are clearly used just for carrying or supporting the wrap. As such, neither of straps 21 or 22 is relevant to the present invention in that neither is used to close the opening the slumber bag. The use of the proper type and arrangement of the fitting straps of the present invention is a key feature of the present invention, and one that provides a significant improvement over the prior art products. As such, the provision of two carrying straps on the Barnes devices does little to suggest the arrangement of the fitting straps of the present invention. This is true even though they appear to use parachute clips 16, or even though these straps might be adjustable.

The Applicant contends that the suggestion to use parachute clips on the straps used for carrying or supporting the wrap, as taught by Barnes et al., does not provide sufficient motivation, or even a reasonable suggestion, to the skilled artisan that the parachute clips should be use in the manner described and claimed in the present invention. There are numerous clips and attachment means available to the public, and the proper selection of a preferred clip is not an obvious selection. This is evident by the fact that neither Barnes nor Hazen utilize this type of clip for partial closure of the slumber bag opening even though this type of clip was clearly known at the time.

With respect to Claim 8, the Applicant acknowledges that the devices of Barnes and Hazen can be used by children between the ages of 6 and 36 months. However, again, Claim 8 is

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dependent on an allowable claim, and thus is allowable in its present format.

With respect to the rejection of Claim 9, the Applicant notes that the document of Shao provides a removable pillow section. Again, though, Claim 9 is dependent on an allowable claim, and thus is allowable in its present format.

As a result, the Applicant contends that Claims 3, 5, 6, 8 and 9, are allowable since, *inter alia*, each is ultimately dependent on an allowable Claim 1.

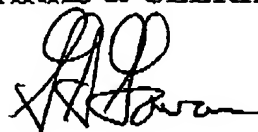
In view of these comments, the Applicant contends therefore, that the rejection of the claims under 35 USC § 103 should also be withdrawn.

SUMMARY

The Applicant has also reviewed the prior art made of record but not relied upon by the Examiner, namely, Tanner (US D154222), Andrews (US D267294), McEntee (US D304256) and Kocivar (US 6199232). It is believed however, that these documents are no more relevant than the documents specifically cited by the Examiner which have been discussed hereinabove. As such, the Applicant contends that these documents are not destructive of the novelty or inventiveness of the present invention.

Accordingly, having addressed all issues raised in the Office Action, the Applicant contends that the present application is now in condition for allowance, and early notification to that effect is respectfully requested.

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